

Local taxes are incurred when sales occur within a jurisdiction imposing a local tax. Selling is deemed to occur where the purchase order is accepted by the seller. See 86 Ill. Adm. Code 270.115. (This is a GIL).

July 5, 2001

Dear Xxxxx:

This letter is in response to your letter dated April 26, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I represent a design firm domiciled in Massachusetts with clients located in various states including Illinois. In addition to designing interior spaces, the design firm usually contracts with its customers to sell them the furnishings needed for their facilities and to arrange for the shipping and installation of the product to the job site for an additional price. The design firm does not have salesmen located in Illinois, but does occasionally send its employees to Illinois to check as-built conditions and to help install projects.

The design firm has a contract with a company domiciled in Illinois to provide a portion of its warehousing, delivery, and installation needs. The installer in turn rents warehouse space from a moving company located near the project. Depending on the needs of the project, the designer's purchase orders call for the furniture to be shipped directly to the job site or to the warehouse space contracted for by its installer. As the project nears completion, the installer arranges to have the goods delivered to the job site and installed.

In discussing taxable location, page 6 of Booklet ST-19 says 'If however, you are an out-of-state retailer that has a warehouse located in Illinois and you ship items from that warehouse to your Illinois customers, the location where the items are warehoused is the taxable location.' Our question concerns whether the warehouse rented by the installer is considered to be the warehouse of the Massachusetts design company for this purpose. Specifically, at what rate should the design firm tax the furniture that passes through the Illinois warehouse:

- (1) The rate for sales from locations outside Illinois.
- (2) The rate where its Illinois installer is located, even though none of the furniture is warehoused there.
- (3) The rate where the warehouse is located even though the design firm does not have a contract with the company that owns the warehouse or pay the warehouse directly.

Lastly would the answer change if the installer used its own warehouse space or the Massachusetts company rented the warehouse space directly?

## DEPARTMENT'S RESPONSE:

In addition to the State Retailers' Occupation Tax, various local taxes may apply to a transaction. Local taxes are incurred when sales occur within a jurisdiction imposing a local tax. The Department has determined that the most important element of selling occurs when a seller accepts the purchaser's offer to buy. Consequently, selling is deemed to occur where the purchase order is accepted by the seller. See for example 86 Ill. Adm. Code 270.115. It is the rate imposed by a jurisdiction at that location that will determine the correct amount of local taxes. The location of the purchaser, or the point at which title passes to the buyer, is immaterial.

If a purchase order is accepted outside this State but the tangible personal property which is sold is in an inventory of the retailer located within a local jurisdiction at the time of sale (or is subsequently produced in that jurisdiction), then delivered in Illinois to the purchaser, the place where the property is located at the time of sale (or is subsequently produced in Illinois) will determine where the seller is engaged in business for local sales tax purposes with respect to such sale. See for example Section 270.115(b)(3).

In the example in your letter, you have stated that the furniture may be stored at the warehouse and would be delivered as the job nears completion. The issue of what tax rate applies for those situations will depend upon whether the sale of the furniture takes place when it is located in the warehouse in Illinois. If the sale of the furniture takes place when the furniture is located outside of this State, then only the 6.25% Use Tax rate applies. In that instance, the property is sold from an inventory not located in this State, and the property is merely stored in this State pending delivery after the sale. If the sale of the furniture takes place when it is located in the warehouse in Illinois, then local taxes (6.25% plus any applicable local taxes) will apply based upon the location of the warehouse.

Please note that the above analysis is not affected whether the warehouse space is rented by the subcontractor or the design firm.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

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Enc.